

# United States District Court

EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION

UNITED STATES OF AMERICA	§	
	§	
vs.	§	Case No. 4:05cr236
	§	(Judge Crone)
CHARLES MICHAEL ELLIOTT, JR. (1)	§	

## **REPORT AND RECOMMENDATION** **OF UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the request for revocation of Defendant's supervised release. After the District Judge referred the matter to this Court for a report and recommendation, the Court conducted a hearing on September 10, 2013, to determine whether Defendant violated his supervised release. Defendant was represented by Denise Benson. The Government was represented by Tracey Batson.

On June 22, 2006, Defendant was sentenced by the Honorable Michael H. Schneider to sixty (60) months followed by five (5) years of supervised release for the offense of Use, Carry, or Possession of a Firearm During a Drug Trafficking Crime. On August 27, 2010, Defendant completed his period of imprisonment and began service of his supervised term. On June 4, 2013, this case was reassigned to the Honorable Marcia A. Crone.

On August 14, 2013, the U.S. Probation Officer executed a Petition for Warrant for Offender Under Supervision. The petition asserted that Defendant violated the following mandatory conditions: (1) the defendant shall not commit another federal, state, or local crime; and (2) the defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment or placement on probation and at least two periodic drug tests thereafter, as directed by the probation officer. The remaining allegations were dismissed by the Government.

The petition alleges that Defendant committed the following acts: (1) On May 8, 2013, Defendant was arrested by the Alba Police Department in Wood County, Texas, for two misdemeanor charges; and (2) On May 16, 2013, Defendant provided a written admission indicating he used K-2, a controlled substance on or about May 8, 2013.

Prior to the Government putting on its case, Defendant entered a plea of true to the remaining violations. As to allegation one, Defendant only entered a plea of true to one misdemeanor, Possession of Drug Paraphernalia. The Court recommends that Defendant's supervised release be revoked.

### **RECOMMENDATION**

The Court recommends that the District Judge revoke Defendant's supervised release. Pursuant to the Sentencing Reform Act of 1984, the Court recommends that Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of twelve (12) months and one day with no supervised release to follow.

After the Court announced the recommended sentence, Defendant executed the consent to revocation of supervised release and waiver of right to be present and speak at sentencing. Defendant and the Government also waived their right to file objections.

**SIGNED this 12th day of September, 2013.**

  
AMOS L. MAZZANT  
UNITED STATES MAGISTRATE JUDGE